

Liberty Township, Adams County
39 Topper Road, Fairfield, PA 17320
Planning Commission Monthly Meeting

December 18, 2018

The Planning Commission of Liberty Township, Adams County, met on Tuesday, Dec. 18, 2018, at 7:30 p.m. in the Liberty Township Municipal Building, 39 Topper Road, Fairfield, for the regular monthly meeting.

Present: Nancy Wenschhof, Chair; Barb Ruppert, Secretary; Vince Gee, Geoff Grant, Judie Hogan; Dominic Picarelli, Township Engineer; Alternate Rich Luquette

Not Present: None

Nancy Wenschhof called the meeting to order at 7:36 p.m.

Public Comment:
None

Minutes: The Nov. 20 meeting minutes were reviewed. Vince Gee moved for approval of the meeting minutes, and Geoff Grant seconded the motion. All were in favor, and the motion passed.

Old Business:

Higgins (25000-0043---000) Land Development Plan Submission

Rich Luquette reported that the supervisors approved this at their workshop meeting earlier today.

Proposed Zoning Ordinance Amendments: Section 303.4 (a), etc. (detached garages and small accessory structures in front yards)

Rich Luquette reported from today's Board of Supervisors workshop meeting on Township Solicitor John Lisko's explanation related to these amendments. Mr. Lisko explained that the county ordinance and Liberty Township ordinance and charts noting that no accessory structures are allowed in the front yard will not hold up in court. These ordinances overly restrict an owner's use of his/her own property/front yard if the owner builds his/her house far back on the lot. As the diagram below from the workshop meeting shows, one person can use his/her whole lot because most of it is behind the house and not restricted (drawing on the right), but the other person with the house in the back of the lot has front yard restrictions and cannot use most of his/her lot (drawing on the left). Those type of restrictions have not held up in court.

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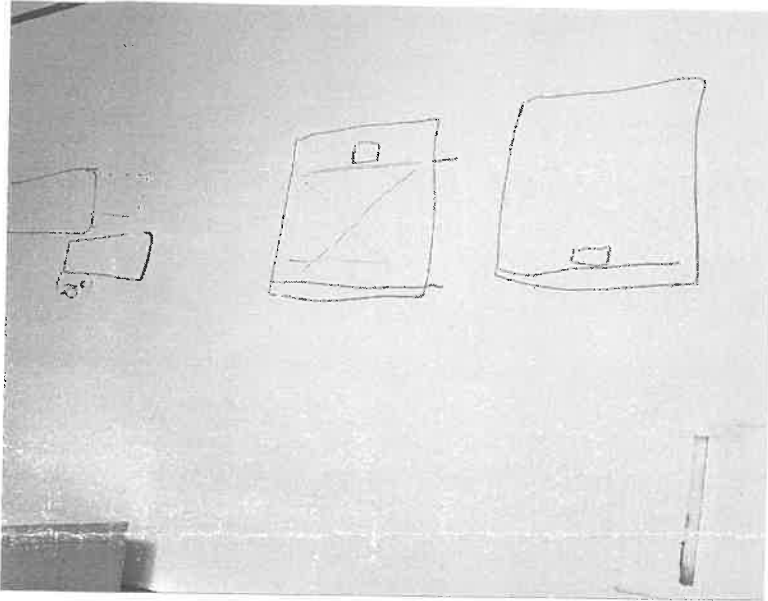
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Rich reported, and Supervisor Bob Jackson concurred, that Mr. Lisko recommends that the only restriction placed on the front yard is to allow no building in the front setback. Building in the rest of the yard is fair game. We can restrict the size of accessory structures on the entire lot, but not in specific portions of it (e.g., applying only to the side yard, etc.).

In light of this information, PC members agreed that they and the supervisors should review the township's zoning ordinances to see if the setbacks are far enough back from the roadway and property lines, since that is all we legally can control. Perhaps the setbacks need to be a little deeper so everyone is treated equally. A citizen at the meeting asked what about if houses are close to the road, then the setbacks change, can a new owner build a house in line with the existing houses, even though it is in the setback?

The supervisors have tasked Mr. Lisko to draft ZO amendments that use the setbacks instead of yards in their wording. These will come to the PC for review. Vince Gee asked about swimming pools, which aren't allowed in front yards currently. The PC agreed to look at that at a later date.

PC members agreed with Mr. Lisko's suggestion that the township change the wording in the ZO and SALDO to say "required setbacks" everywhere instead of using the word "yard." This will avoid confusion and the above possible legal challenges.

Judie Hogan moved to delay further discussion until the PC sees Mr. Lisko's recommendations on all of the above. Nancy Wenschhof seconded the motion. All were in favor, and the motion passed.

PC members agreed that it would be good for the solicitor and supervisors to see what the PC discussed so that they had more information when receiving letters or recommendations from the PC. Vince Gee moved that, from this point forward, the PC should send its unapproved meeting minutes to the township solicitor and supervisors for informational use only. Judie Hogan seconded the motion. All were in favor, and the motion passed.

New Business:

Middle Creek Bible (25D16-0007---000)/Braun (25D16-0037---000) Subdivision and Lot Addition Plan Submission

Dominic Picarelli explained that his comments of Dec. 10, 2018, noted that Freedom Township needed to approve this—but he was at their last meeting and they said they won't even review the plans. A part of the lot in Liberty is being cut off and added to another owner in Liberty, so it's not really affecting Freedom.

Dom went over the comments from the county, which said the plan should be signed, have a phone number, etc. No new construction is proposed. Dom talked with Ken from Beyond All Boundaries, the plan surveyors, who figures the plan will be tabled, they'll do a resubmission to address comments, and then the plan will be addressed next month. Dom said the comments are nothing major, just crossing some "t"s and dotting some "i"s.

Judie Hogan motioned that the PC write a letter to the applicants stating that a new submission needs to be made addressing comments from Adams County of Dec. 6 and from KPI Engineering of Dec. 10. Vince Gee seconded the motion. All were in favor, and the motion passed.

Dom noted that a wetland delineation was done in 1996 when the owner made a treatment plan. The applicant must ask the township for a waiver if he does not want to do a wetland delineation now. Judie said the PC must insist on this waiver since it's in our ZO. Dom recommends that when the PC continues reviewing the SALDO, we should amend it to say that if no construction is occurring, or construction is not in hydric soils, the township does not require a wetland delineation. This way, the township doesn't have to keep granting waivers all of the time, since that has become our common practice.

Middle Creek Bible (25D16-0007---000)/Braun (25D16-0037---000) Request for Planning Waiver & Non-Building Declaration

The PC was asked to sign this declaration. KPI has already signed off on it.

Barb Ruppert motioned to approve the non-building waiver. Vince Gee seconded the motion. All were in favor, and the motion passed. Nancy Wenschhof signed the declaration.

Other Business:

Dave Millstein Possible Plan Question – Dave Millstein said he has lived here 20 years, and he wants to build two houses on his lot on Tract Road near the intersection with Grasshopper Lane, one for him and one for his parents, astride Hamiltonban and Liberty townships. There will be one house in each township, across the lane from each other. He said it seems feasible to put two houses on 30 acres of land. He wants to cut the property in half, one house on each 15-acre lot, and so he needs to subdivide. He can't just do a land development plan because what if one of the houses sells? Banks and insurers won't look at the property then, because no tangible land then goes with the second house. He just left the Hamiltonban Township meeting, and they said to talk to Liberty Township. He asked the PC: What do we need to do to make this happen? Is it ok that the property is landlocked even if there is an agreement in the deed? What do we need to do so we can make an offer on the property that we want to buy?

Dominic Picarelli said the Liberty Township zoning officer does not approve landlocked lots. Also, Liberty zoning ordinance says no more than one use per lot. The owner could have one driveway front the road in Hamiltonban, with an easement on the entire driveway out into Tract Rd and Hamiltonban. If the board of supervisors is ok with the plan at all, the owner will need maintenance and right of way agreements. If the zoning officer says it meets zoning requirements, and the PC and township supervisors ok it, the owner can proceed.

Dave said Hamiltonban brought up the possibility of flag lots, where he would need two flag lots leading to the right of way on Tract Rd. Vince Gee said Liberty did away with flag lots. But if the flag part is in Hamiltonban, is that ok? Both townships do allow shared driveways.

Dom said that Dave needs to ask the zoning officer and solicitor. It's a legal issue to make sure everything is done correctly, but the overall idea doesn't seem to be a problem. It's just complicated because two townships, two different engineers, two different solicitors, will have to work things out. Dom recommends that the PC decide if it's ok with the overall concept, and then Dave should take it to our township solicitor and zoning officer.

Bob Jackson reported that Darrin Catts at PMCA is our new zoning officer, and he will give Dave PMCA contact info.

Vince said as long as the driveway agreement is written well, maintenance is documented and the driveway is wide enough, he sees no problem with a shared driveway. Dave said he's on Grasshopper and already has a landlocked piece of property with six folks sharing a driveway amicably.

Nancy Wenschhof said he needs to go to both zoning officers and see what they say.

Dom recommends that the township forces flag lots rather than a landlocked lot—there are too many possible headaches in future with a landlocked lot. Maybe the owner could run a driveway off of Tract Rd and off of a lot line until it reaches to the other property. This way, when new owners in 20 years can't agree on the driveway, the township can say, "You have a strip where you can go build a second driveway." Owner could put the flag part in Hamiltonban, since they allow flag lots.

Dom recommends the owner call and/or email the township zoning officer and solicitor and get their unofficial approval before moving forward and spending money on the plan.

SALDO Review Section IV – Members will continue reviewing the SALDO again at Article IV, Section 410, at the next meeting. Rich Luquette also saw an unapproved well ordinance that the PC needs to obtain and review as well; does our township even want a well ordinance?

At 8:35 p.m., Geoff Grant moved to adjourn the meeting. Judie Hogan seconded the motion. All voted yes, and the motion passed. The next meeting is scheduled for Jan. 15 at 7:30 p.m.

Respectfully submitted,



Barb Ruppert
Planning Commission Secretary